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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

10 || DAMEN D. RABB,

Plaintiff,

12 || v.

13 CABRERA, *et al.*,

Defendants.

Case No. 1:23-cv-01014-ADA-BAM (PC)

ORDER DENYING PLAINTIFF'S
RENEWED MOTION TO AMEND
WITHOUT PREJUDICE

(ECF No. 17)

16 Plaintiff Damen D. Rabb (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma
pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.
17

18 On August 29, 2023, the Court screened the first amended complaint and issued findings
19 and recommendations that this action proceed on Plaintiff's first amended complaint against
20 Defendant Cabrera for failure to protect in violation of the Eighth Amendment, and all other
21 claims and defendants be dismissed based on Plaintiff's failure to state claims upon which relief
22 may be granted. (ECF No. 12.) Plaintiff timely filed objections on September 15, 2023, (ECF
23 No. 13), and the findings and recommendations are pending before the assigned District Judge.

24 On October 23, 2023, Plaintiff filed a request to file a second amended complaint, stating
25 his intent to include details to correlate the instant action with another pending case, *Rabb v.*
26 *Figueroa*, Case No. 1:23-cv-00843-JLT-SAB (PC). (ECF No. 15.) The Court denied the motion,
27 without prejudice, finding that Plaintiff had not included a proposed second amended complaint
28 and based on the information provided it appeared amendment would be futile and cause delay.

1 (ECF No. 18.)

2 On November 6, 2023, Plaintiff filed a renewed request for leave to file a further amended
3 complaint. (ECF No. 17.) Plaintiff raises the same arguments as in his prior motion, though he
4 clarifies that he does not wish to add new defendants to this action, and also identifies *Rabb v.*
5 *Cal. Dep't of Corr. & Rehab.*, Case No. 1:23-cv-01381-GSA as another case related to the instant
6 action and *Rabb v. Figueroa*. (*Id.*) Plaintiff has again not included a proposed amended
7 complaint.

8 As Plaintiff has raised largely the same arguments as those set forth previously, the Court
9 denies the motion for the same reasons provided in the Court's October 25, 2023 order. (ECF
10 No. 16.) Based on the information provided, it appears that the proposed amendment would be
11 futile and cause unnecessary delay. Moreover, the identified actions do not appear to be related
12 and Plaintiff has not explained how the addition of facts that would allegedly connect these
13 actions will cure any of the deficiencies identified by the pending findings and recommendations
14 in this action.

15 Plaintiff is reminded that the Court cannot fully evaluate the scope of the proposed
16 amendment without a proposed amended complaint. If Plaintiff chooses to renew his motion, he
17 should include a proposed amended complaint that is "complete in itself without reference to the
18 prior or superseded pleading," as required by Local Rule 220. Plaintiff's re-filed motion to
19 amend should also specifically address how an amended complaint will cure the deficiencies
20 identified by the Court's prior screening orders.

21 Based on the foregoing, Plaintiff's renewed motion to amend, (ECF No. 17), is HEREBY
22 DENIED, without prejudice.

23 IT IS SO ORDERED.
24

25 Dated: November 7, 2023

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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